

Remarks/Arguments

By the present the applicant wishes to amend the claims.

Thus with respect to the claims, the applicant wishes to amend claim 1 by incorporating therein the subject matter of claim 2 while cancelling claim 2 as well as cancelling claim 4 dependent on claim 2; the dependencies of claims 6, 7 and 9 to 24 have further been adjusted such that these dependent claims are dependent directly or indirectly on currently amended claim 1 (e.g. through claim 3). The applicant further wishes to cancel claims 32 and 33.

The applicant also wishes to correct an inadvertent error in the previous claims list with respect to claim 23. claim 23 for the previous claims list identified claim 23 as (Original) but did include a clerical correction – so the present claims list corrects this by identifying the amended claim as (Currently amended).

In the previous Office Letter of July 30, 2007, the examiner previously rejected claims 1, 3, 4, 12-16, 18-23, 32 and 33 under 35 USC 103(a) as being obvious in light of Ukuchi (JP 08-068553) when read with Kurokawa (JP 07 -042990).

The examiner in the last paragraph on page 2 of the office letter of July 8, 2008 has indicated that the applicant's response to the previous Office Letter of July 30, 2007 did not comply with 37 CFR 1.111 in the following terms; "Since applicant also **discloses** stale air ducts at 3 and 33, applicant's tangential statement of fact about Ukuchi and Kurokawa disclosing stale air ducts does not comply with the requirements of 37 CFR 1.111, which requires an explanation of why the presently **claimed** structure in applicant's claims defines a patentable invention" **(emphasis added)**

The applicant noted in the previous response, that the examiner, as the basis for the obviousness rejection, has referred to **stale** air ducts 11 and 14 of Ukuchi and the **stale** air duct 3a of Kurokawa. Please see page 3 bottom paragraph of the previous Office Letter of June 30, 2007 where obviousness is argued for on the basis of the combination of **stale** air ducts 11 and 14 of Ukuchi with the **stale** air duct 3a of Kurokawa in the following terms: "To have connected ducts 11 and 14 of Ukuchi together at their upstream portions would have been obvious in view of the teaching shown with respect to duct 3a of Kurokawa,". Hence the applicant

understood that the obviousness rejection against the claims was based on a reliance on the combination of the stale air ducts of the cited art documents (i.e. which combination at best would give rise to another stale air duct member).

On the other hand, the applicant in the previous response submitted that the amended claims as **well as new claim 34** relate to subject matter that is patentably distinct from Ukuchi when read with Kurokawa.

Thus the applicant in the previous response indicated that independent claims 1, 25, 32, 33 **and 34**, as the case may be, refer, inter alia, to

- a) a primary (**fresh** or output) air duct element; and
- b) a further or additional secondary (**fresh** or output) air path means, the further secondary air path means comprising an air duct having first and second ends.

(please see for example figure 1 of the present application (in particular example element 41 thereof) as well as figures 4 to 7 thereof).

In other words, the applicant (based on the applicant's understanding of the obviousness rejection) did indicate in the previous response how elements of structure in the claims (**including claim 34**) render the claims patentably distinguishable from the cited references, i.e. by reference to a primary **fresh** air duct element and a further or additional secondary **fresh** air path means.

The applicant has thus proposed claims wherein the subject matter makes reference to structural elements exemplified by fresh air elements 35, 41, and 41a of figure 1 of the present application and not in relation to exemplified stale air elements 3 and 33 (also of figure 1).

In any event, the examiner in the previous Office Letter of July 30, 2007, indicated that the subject matter of claim 2 was allowable. The applicant, as indicated above, wishes to amend claim 1 by incorporating therein the subject matter of claim 2; amended claim 1 thus incorporates therein, inter alia, first and second damper elements. Accordingly, the applicant submits that the subject matter of amended claim 1, (as well as of the claims dependent thereon, namely claims 3, 6, 7 and 9 to 24) is patentably distinct from the cited references mentioned above (i.e. as previously accepted by the examiner).

On the other hand, the applicant wishes to maintain independent claims 25 and 34 (as well as claims 26 to 31 dependent on claim 25). As mentioned above, the applicant has previously submitted that these claims are distinguishable from the cited prior art references for the reasons given above and in the previous response.

However, the applicant wishes to also point out the independent claims 25 and 34 also incorporate therein first and second damper elements, i.e. each specify a manifold component in the following terms:

“said manifold component comprising an air inlet, a first air outlet, a second air outlet, a **first damper element** associated with said first air outlet, and a **second damper element** associated with said second air outlet,”
(emphasis added)

Please see for example elements 90, 52a and 52b in figure 9.

The applicant submits that the cited references (even if read together) do not suggest nor provide any incentive for a manifold having the two damper elements as set forth (see above) in claims 25 and 34.

Accordingly, the applicant submits that present independent claims 25 and 34 (as well as any claims dependent thereon) also relate to subject matter that is patentably distinct from the cited references mentioned above.

If any further fee, whatsoever, with respect to the present application is due, the United States Patent and Trademark Office is in any event hereby authorized to charge such further amount to our **Deposit Account no. 02-3980.**

Favourable reconsideration of the present application in light of the foregoing amendments and remarks is respectfully requested.

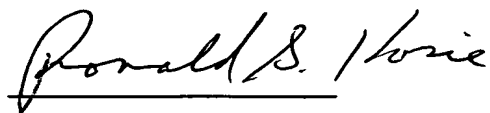
Furthermore, as mentioned above, the applicant has by separate letter petitioned for a one (1) month extension of time within which to respond to the outstanding Office Letter of July 8, 2008, namely up to and including September 8, 2008. If any further extension of time is necessary, the United States Patent and Trademark Office is hereby petitioned for such an extension and may charge any necessary fees to our **Deposit Account no. 02-3980.**

If any further fee, whatsoever, with respect to the present application is due, the United States Patent and Trademark Office is in any event hereby authorized to charge such further amount to our Deposit Account no. 02-3980.

In light of the foregoing amendments and comments, favourable reconsideration is respectfully requested.

Respectfully submitted,

GAGNON et al.

A handwritten signature in cursive script, reading "Ronald S. Kosie", is written over a horizontal line.

Ronald S. Kosie
Reg. No 28,814
1100 René-Lévesque Boulevard West 25th Floor
Montréal, Québec, Canada H3B 5C9

Telephone: (514) 397-6942
Fax: (514) 397-8515

Encl. Petition for an extension of time